

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION

UNITED STATES OF AMERICA	§	
	§	
vs.	§	NO: WA:07-CR-00020(3)-ADA
	§	
(3) ARTIE LEE KIRBY II	§	

ORDER ACCEPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE

Before the court is the above styled and numbered cause. On March 16, 2023 the United States Probation Office filed a Petition For Warrant or Summons For Offender Under Supervision for Defendant (3) ARTIE LEE KIRBY II, which alleged that Kirby violated a condition of his supervised release and recommended that Kirby's supervised release be revoked (Clerk's Document No. 367). A warrant issued and Kirby was arrested. On September 28, 2023, Kirby waived an appearance before a United States Magistrate Judge, remained detained, and a revocation of supervised release hearing was set.

Kirby appeared before the magistrate judge on November 14, 2023, waived his right to a preliminary hearing and to be present before the United States District Judge at the time of modification of sentence, and consented to allocution before the magistrate judge. Following the hearing, the magistrate judge signed his report and recommendation on Jeffrey C. Manske, which provides that having carefully considered all of the arguments and evidence presented by the Government and Defendant, based on

the original offense and the intervening conduct of Kirby, the magistrate judge recommends that this court revoke Kirby supervised release and that Kirby be sentenced to imprisonment for TIME SERVED months, with a term of Thirty-Six (36) months supervised release to follow the term of imprisonment (Clerk's Document No. 404). with that supervision transferred to the Pennsylvania district in which the Defendant resides. The Court should also re-impose the original conditions of supervision.

A party may serve and file specific, written objections to the proposed findings and recommendations of a magistrate judge within fourteen days after being served with a copy of the report and recommendation, and thereby secure a *de novo* review by the district court. *See* 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b). A party's failure to timely file written objections to the proposed findings, conclusions, and recommendation in a report and recommendation bars that party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court. *Douglass v. United Services Auto Ass'n*, 79 F.3d 1415 (5th Cir. 1996) (*en bane*). The parties in this cause were properly notified of the consequences of a failure to file objections.

On November 14, 2023, following the hearing on the motion to revoke supervised release, all parties signed a Waiver Of Fourteen Day Rule For Filing Objections To Report and Recommendation Of United States Magistrate Judge (Clerk's Document No. 402). The court, having reviewed the entire record and finding no plain error, accepts


and adopts the report and recommendation filed in this cause.

IT IS THEREFORE ORDERED that the Report and Recommendation of the United States Magistrate Judge filed in this cause (Clerk's Document No. 404) is hereby **ACCEPTED AND ADOPTED** by this court.

IT IS FURTHER ORDERED that Defendant (3) ARTIE LEE KIRBY II 's term of supervised release is hereby **REVOKED**.

IT IS FURTHER ORDERED that Defendant (3) ARTIE LEE KIRBY II be imprisoned for **TIME SERVED** with a term of supervised release of Thirty-Six (36) months to follow the term of imprisonment with that supervision transferred to the Pennsylvania district in which the Defendant resides. The Court re-imposes the original conditions of supervision.

Signed this 29th day of November, 2023.


ALAN D ALBRIGHT
UNITED STATES DISTRICT JUDGE